



PUBLIC EMPLOYMENT RELATIONS BOARD

2000-2001 ANNUAL REPORT

October 15, 2001



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Board Members

ANTONIO C. AMADOR
RICHARD T. BAKER
ALFRED K. WHITEHEAD
THEODORE G. NEIMA

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Message from the Board

The Public Employment Relations Board (PERB or Board) respectfully submits its 2000-2001 Annual Report to the Legislature. The report is intended to present a summary of PERB's role in promoting public service, by facilitating improved labor relations for California's public employers and employees.

This Annual Report marks the Silver Anniversary of the establishment of PERB to administer the collective bargaining statutes covering public school employees. PERB was later given jurisdiction over that process for employees of the University of California, the California State University, and the State of California. Effective July 1, 2001, Senate Bill 739 transferred jurisdiction to PERB for employee-employer relations in over 5,000 cities, counties and special districts.

Over the past twenty-five years, PERB has established precedential extensive expertise in labor relations through an ever-developing body of case law. Our mission is guided by the premise that by providing improved public sector labor relations in a fair manner, we can enhance the commitment to public service.

Recent events in our nation have reminded us all of the vital and often heroic work of public employees, their managers and employers. Their dedication to public service resulted in the ultimate sacrifice for far too many. However, their sacrifice reinforces PERB's obligation to pursue its duties in a manner which demonstrates respect for the service of our public employees and employers.

Finally we note that although PERB's jurisdiction has increased, the agency remains one of the State's smallest. While PERB provides guidance to nearly two million public employees and 7,000 employers, it does so with fewer than 40 dedicated staff members.

Despite its small size, PERB will endeavor to meet the challenge of its newly increased jurisdiction. With the support of the Governor and the Legislature, PERB can continue to fulfill its critical role in strengthening public service through the proper administration of California's collective bargaining statutes.

Antonio C. Amador
Board Member

Richard T. Baker
Board Member

Theodore G. Neima
Board Member

Alfred K. Whitehead
Board Member

Introduction of Board Members and Administrators

Board Members

Appointed to the Board in 1997, **Antonio C. Amador** served nearly seven years as Vice Chairman and Member of the United States Merit Systems Protection Board. He previously served as Chairman and Member of the Youthful Offender Parole Board; Deputy Director of the Employment Development Department, and as Director of the California Youth Authority. Mr. Amador also served as a Los Angeles Police Officer and was president of the Police Protective League from 1974 to 1976. His current term expires on December 31, 2001.

Appointed to the Board on March 29, 2000, **Richard T. Baker** was previously a self-employed labor relations consultant. From 1973 to 1995, he was the owner of the labor relations and consulting firm of Blanning and Baker Associates in Sacramento, San Francisco and Los Angeles. Baker earned a Bachelor of Arts Degree from California State University, Sacramento. His current term expires on December 31, 2003.

Appointed to the Board on January 3, 2001, **Alfred K. Whitehead** is General President Emeritus for the International Association of Fire Fighters (IAFF), where he served from 1988 to August 2000. In 1982, he was elected General Secretary/Treasurer of the IAFF and was re-elected through 1988. Mr. Whitehead served as a fire captain for the Los Angeles County Fire Department from 1954 to 1982. He was a member of the Los Angeles County Fire Fighters Local 1014 for more 20 years and was President for 12 years. Mr. Whitehead is a former member of the Los Angeles County Board of Retirement and served as an elected official to the National Conference on Public Employee Retirement Systems for more than 17 years. He attended East Los Angeles College, is a veteran of the United States Army, and also served as a United States Merchant Marine. His current term expires on December 31, 2005.

Appointed to the Board on August 7, 2001, **Theodore G. Neima** was formerly a Grand Lodge Representative for the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM), a position he held since 1979. In 1993, he assumed responsibility in the thirteen Western United States for coordination of IAM cases before employment relations agencies. This included the presentation of representational and unfair labor practice cases before the National Labor Relations Board, the Federal Labor Relations Authority and state employment relations boards, including PERB. In 1983 and 1984, he served as the Special Assistant to the California Labor Commissioner. His current term expires on December 31, 2004.

Martin B. Dyer served as a Board Member in the term expiring December 31, 2000. Appointed to the Board in 1995; he formerly served California as the Chief Deputy Director of the Department of Parks & Recreation. He also served as Chief Deputy Director, Governor's Office of Planning & Research; Transition Deputy, Office of Governor-Elect Pete Wilson; Chief, Department of Consumer Affairs Arbitration Review Program; Chief, Department of Consumer Affairs Bureau of Automotive Repair; Legislative Secretary to Governor Ronald Reagan, and consultant to the State Legislature. He earned an M.A. in Political Science from Rutgers University, a B.A. in Government and Sociology from Pomona College, and holds a Certificate in Teaching English to Speakers of Other Languages.

Administrators

Chief Administrative Law Judge **Ron Blubaugh** was first employed as legal counsel for the Educational Employment Relations Board [now PERB] on June 28, 1976; promoted to Administrative Law Judge at PERB in 1986; and was named Chief Administrative Law Judge July 21, 1994. He has taught labor-management relations courses for the University of California, Davis, Extension continuously from 1979 to the present. Ron received an in A.B. in economics from the University of Notre Dame, an M.S. in journalism from Northwestern University, and a J.D. from the University of the Pacific McGeorge School of Law

Deputy General Counsel **Robert Thompson** began working for PERB in 1980 as a Legal Advisor to then Chair Harry Gluck. He also worked as a Regional Attorney and has been the Deputy General Counsel since 1988.

Anita I. Martinez has been employed with PERB since 1976 and has served as San Francisco Regional Director since 1982. Her duties include supervision of the regional office, investigation of representation cases and unfair practice charges, and the conduct of settlement conferences, representation hearings, and elections. Before joining PERB in 1976, Anita worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, *California Public Sector Labor Relations*, Anita has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Anita received her B.A. from the University of San Francisco.

Les Chisholm has served as Sacramento Regional Director for PERB since 1987. His duties include investigation of representation cases and unfair practice charges, and conduct of settlement conferences and representation hearings and elections. Mr. Chisholm also has responsibilities in the areas of legislation, rulemaking and computer projects for the Board. He received an M.A. in political science from the University of Iowa.

Eileen Potter began working for PERB in 1993 as the Administrative Officer. Her state service includes service in the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Eileen worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

I. OVERVIEW

A. Statutory Authority and Jurisdiction

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers four collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB prior to July 1, 2001 were: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code sec. 3540, et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code sec. 3512, et seq.), establishing collective bargaining for State Government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code sec. 3560, et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968, which established collective bargaining for California's municipal, county, and local special district employers and employees. This occurred as a result of Governor Gray Davis' signing of Senate Bill 739, authored by State Senator Hilda Solis (Statutes of 2000, Chapter 901). PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles.

In order to implement the MMBA, PERB promulgated new regulations after substantial involvement from the affected public at numerous open sessions. These regulations will be discussed in more detail later in this report.

With the passage of SB 739, approximately 1.5 million public sector employees and their employers are included within the jurisdiction of the four Acts administered by PERB. Approximately 675,000 employees work for California's public education system from pre-kindergarten through and including the community college level. Approximately 125,000 employees work for the State of California. The University of California, California State University and the Hastings College of Law employ approximately 100,000. The remainder are employees of California's cities, counties and special districts.

B. PERB's Purpose and Duties

1. The Board

The Board itself is composed of five members appointed by the Governor and subject to confirmation by the State Senate. Board members are appointed to five-year terms, with the term of one member expiring at the end of each calendar year. In addition to the overall responsibility for administering the four statutes, the Board itself acts as an appellate body to hear challenges to proposed decisions that are issued by the staff of the Board. Decisions of the Board itself may be

appealed under certain circumstances, and then only to the state appellate courts. The Board, through its actions and those of its staff, is empowered to:

- Conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- Prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- Deal with impasses that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- Ensure that the public receives accurate information and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- Interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts;
- Bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- Conduct research and training programs related to public sector employer-employee relations;
- Take such other action as the Board deems necessary to effectuate the purposes of the Acts that it administers.

During fiscal year 2000-2001, the Board issued 76 decisions. A summary of the Board's 2000-2001 decisions is included in the Appendix.

2. Major PERB Functions

The major functions of PERB involve: (1) the administration of the statutory process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (2) the evaluation and adjudication of unfair practice charges; and (3) the legal functions performed by the office of the General Counsel.

The representation process normally begins when a petition is filed by an employee organization to represent employees in classifications which reflect an internal and occupational community of interest. If only one employee organization petition is filed and the parties agree on the description of the bargaining unit, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for representational rights of the same bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation and/or hearing and issues a written determination which sets forth the appropriate bargaining unit, or modification of that unit, based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing. Once an initial bargaining unit has been established, PERB conducts a representation election in cases in which the employer has not granted voluntary recognition to an employee organization. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

Representation Section staff also assist parties in reaching negotiated agreements through the mediation process provided in the four Acts PERB administers, and through the fact-finding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both parties to determine if they have reached a point in their negotiations at which their differences are so substantial or prolonged that further meetings without the assistance of a mediator would be futile. Once PERB has determined that an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

In the event settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory fact-finding procedures. PERB provides lists of neutral factfinders who make findings of fact and advisory recommendations to the parties concerning terms of settlement.

A summary of PERB's representation activity is included later in this report.

The evaluation and adjudication of unfair practice charges is another major function performed by PERB. An unfair practice charge may be filed with PERB by an employer, employee organization, or employee, alleging that an employer or employee organization has committed an act which is unlawful under one of the Acts administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is evaluated by staff to determine whether a prima facie case of an unlawful action has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit

a reasonable inference that a violation of the EERA, Dills Act, HEERA or MMBA has occurred. If it is determined that the charge fails to state a prima facie case, a Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is afforded time to either amend or withdraw its charge. If the charge is neither amended nor withdrawn, the Board agent dismisses it. The charging party may then appeal the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent is then given an opportunity to file an answer to the complaint.

Once a complaint has been issued, an Administrative Law Judge (ALJ) or other PERB agent is assigned to the case and calls the parties together for an informal settlement conference, usually within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled, normally within 60 days of the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then file an appeal of the proposed decision to the Board itself. The Board itself may affirm, modify, reverse or remand the proposed decision.

Proposed decisions which are not appealed to the Board itself are binding upon the parties to the case but may not be cited as precedent in other cases before the Board.

Decisions of the Board itself are both binding on the parties to a particular case and precedential. A digest of PERB decisions is available upon request.

The Appeals Office, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered and prepares administrative records filed with California appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

The legal representation function of the Office of the General Counsel includes:

- Defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in state appellate courts;
- Seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;
- Seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;

- Defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- Submitting amicus curiae briefs and other motions, and appearing in cases in which the Board has a special interest or in cases affecting the jurisdiction of the Board.

A summary of the litigation activity of the Office of the General Counsel is included later in this report.

3. Other PERB Functions and Activities

Retention of Collective Bargaining Agreements

PERB regulations require that most employers file with PERB a copy of all collective bargaining agreements reached pursuant to the four Acts PERB administers, within 60 days of the date of execution. These contracts are maintained as public records in PERB's regional offices.

Financial Records

The law requires recognized or certified employee organizations to file with PERB an annual financial report of income and expenditures. Organizations which have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements.

Complaints alleging noncompliance with these requirements may be filed with PERB, which may take action to bring the organization into compliance.

Advisory Committee

The Advisory Committee to PERB consists of approximately 100 people from throughout California representing employers, employee organizations, law firms, negotiators, professional consultants, the public and scholars. The Advisory Committee was originally established several years ago to assist the Board in its regulation review process. Currently, the Advisory Committee continues to assist the Board in its search for ways to improve PERB's effectiveness and efficiency in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to greater stability in employer-employee relations.

Conference Sponsorship

The California Foundation for Improvement of Employer-Employee Relations (CFIER) is a non-profit foundation dedicated to assisting public education employers and employees in their efforts to improve working relationships, solve problems and provide leadership in the education community. CFIER began in 1987 as a project within PERB. Each year CFIER presents a conference entitled "Public Education: Meeting the Challenge." PERB is joined by the Institute of Industrial Relations at the University of California, Berkeley; the California State Mediation and Conciliation Service; and the Federal Mediation and Conciliation Service in sponsoring the annual conference. The 2000 CFIER conference was held in October 2000 in Los Angeles.

Information Requests

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations and formal decisions. Information requests from the Legislature and the general public are also received and processed. Additionally, PERB cooperates with the Institute of Industrial Relations of the University of California, Berkeley, in the dissemination of information concerning PERB policies and actions to interested parties throughout the State.

C. Support Functions and Board Operations

The **Administration Section** provides support services to PERB, such as business services, personnel, accounting, information technology, mail and duplicating. This section also engages in budget development and maintains liaison with the Department of Finance and other agencies within State Government.

Throughout the past few years, PERB has embraced automation as a means of increasing productivity, allowing it to handle increased workload with reduced staffing. PERB has also moved forward with the full development of its website, allowing those who do business with PERB the ability to access PERB Decisions, on-line forms and access the Board's rules, regulations and statutes.

II. LEGISLATION AND RULEMAKING

A. Legislative History of PERB

The Public Employment Relations Board's (PERB or Board) present involvement in California public sector labor relations can best be seen as a result of an evolutionary legislative process. Highlights are presented herein.

The George Brown Act

The George Brown Act of 1960 established a process to determine wage levels for public employees, including State employees. The Act involved the Legislature, the State Personnel Board and non-exclusive employee groups. Each year the State Personnel Board would conduct a study of employee wages and benefits. Using this information, along with input from the employee groups, Legislature and the Governor, a budget item would result reflecting any salary increase for State employees. The Brown Act required the State, as management, to meet and confer with non-exclusive employee organizations to hear their salary requests.

The Winton Act

The Winton Act of 1964 withdrew public school and community college employees from the George Brown Act. It granted school employees the right to form, join and participate in the activities of employee organizations and the right to refrain from such activities. It provided for meet and confer but not for exclusive representation. The Winton Act continued plural representation for classified employees and created certificated employee councils for certificated employees. The Winton Act did not provide for an administrative agency. Enforcement of the law was through the courts.

Meyers-Milias-Brown Act (MMBA)

The MMBA originally was enacted in 1968 when Senator George Moscone authored SB 1228. SB 1228 was approved by the Legislature on August 1, 1968 as Chapter 1390 of the Statutes of 1968 and was signed by former Governor Ronald Reagan on August 21, 1968. At the time it was written, the law withdrew all employees of local government from the George Brown Act. The MMBA authorized local governments to adopt rules and regulations to provide for administering employer-employee relations. It did not establish exclusive representation by the statute but permitted local government to establish exclusivity through local ordinance. It permitted negotiations of agency shop since 1981. Unfair practice provisions were not in the text of the statute. Local government entities are permitted to adopt reasonable rules establishing election procedures. The MMBA did not exclude management, supervisory or confidential employees.

Unsuccessful Legislation Leading to EERA

In 1972, Assembly Resolution No. 51 established the Assembly Advisory Council on Public Employee Relations. This blue ribbon panel recommended the enactment of a comprehensive public employment bargaining law for all public employees in California. Several legislative attempts were made to enact this panel's recommendations, each attempt failing to become law.

In 1973, Assembly Speaker Bob Moretti introduced AB 1243, which failed to receive the votes necessary to secure passage. Senator George Moscone introduced SB 400 in 1974, which did not reach the Assembly floor. Senate Bill 1857, authored by Senator Albert Rodda, was debated. Two other unsuccessful efforts were made in 1975, SB 275 (Dills) and AB 119 (Bill Greene and Julian Dixon). Despite these failures, momentum was building which finally led to the enactment of EERA in 1976.

The Educational Employment Relations Act (EERA)

On January 6, 1975, Senator Albert S. Rodda introduced SB 160, the EERA. Several amendments were made by the author in an attempt to achieve a consensus bill that both employers and employee organizations would support. This measure passed the Legislature on September 8, 1975, and was signed into law as Chapter 961 (Statutes of 1975) by Governor Edmund G. Brown Jr. on September 22, 1975.

The "meet and confer" provision of the Winton Act was strictly limited. Agreements reached under this process could not be incorporated into a written contract, were not binding and could be modified unilaterally by the public school employer.

EERA created the Educational Employment Relations Board (EERB). The EERB was the quasi-judicial agency created to implement, legislate, and settle disputes in, collective negotiations for California's public school employers and employees. The three-member Board assumed its responsibilities in April 1976. The new labor board was given the authority to:

- Determine appropriate bargaining units;
- Conduct representation elections;
- Decide whether or not disputed subjects fall within the scope of representation;
- Appoint fact finders and mediators in impasse situations;
- Investigate and resolve unfair practice charges;
- Bring actions in court to enforce its decisions.

State Employer-Employee Relations Act (SEERA or Dills Act)

Senate Bill 839, authored by Senator Ralph C. Dills, was passed by the Legislature on

September 19, 1977 as Chapter 1159 of the Statutes of 1977. SEERA was signed into law on September 30, 1977 by Governor Brown and became effective July 1, 1978. SEERA extended EERB coverage to State civil service employees. It also renamed EERB as the Public Employment Relations Board (PERB). The powers that had been given to the EERB were conferred on the new PERB.

SEERA contained additional provisions for the exclusive representation by employee organizations, the filing of unfair practice charges and the use of mediation for impasse resolution. SEERA also required the State employer to "meet and confer in good faith." Memoranda of Understandings supersede specified code sections under the provisions of SEERA.

Higher Education Employer-Employee Relations Act (HEERA)

Assemblyman Howard Berman authored AB 1091, the HEERA, which became law on September 13, 1978. HEERA took effect in July 1979. It covers all employees of the University of California, the California State University and College System, and the Hastings College of Law.

HEERA extends authority similar to that exercised by the Board under EERA and SEERA.

MMBA Amendments

In 2001, PERB assumed responsibility for administering the MMBA. Thus, nearly 30 years after it first was suggested that a labor board be created to supervise collective bargaining for all public employees in California, that idea has become reality.

PERB was given jurisdiction over the MMBA through the enactment of SB 739 by Senator Hilda L. Solis. Under the revised MMBA, PERB has jurisdiction over labor relations at all levels of local government except for the City of Los Angeles, the County of Los Angeles and all local police departments.

B. Rulemaking

Senate Bill 645 (Statutes of 1999, Chapter 952)

A regulations package regarding proposed changes necessary as a result of the enactment of Senate Bill 645, which provided for fair share fees under the Higher Education Employer-Employee Relations Act, previously submitted to the Office of Administrative Law (OAL) under emergency rulemaking authority, was submitted and approved through the regular rulemaking process during fiscal year 2000-2001. The package was adopted by the Board on July 11, 2000, submitted to OAL on July 26, 2000 and approved in September 2000.

Senate Bill 683 and 1960 (Statutes of 2000, Chapters 879 and 893)

PERB submitted a regulations package to OAL on January 2, 2001, to implement changes required by Senate Bills 683 and 1960. Senate Bill 683 amended the Ralph C.

Dills Act to, inter alia, provide for the continuation of both binding arbitration and fair share fees upon the expiration of memoranda of understanding. Senate Bill 1960 amended the Educational Employment Relations Act to allow an exclusive representative to require the implementation of a fair share fee requirement without an employer's agreement. The changes related to Senate Bill 1960 were implemented as emergency regulations effective January 2, 2001. The Board held a public hearing on the rulemaking package on March 15, 2001, took action to approve the changes on March 15 and April 19, 2001, and submitted it to OAL on April 27, 2001. The rule changes received final approval on April 30, 2001.

Senate Bill 739 (Statutes of 2000, Chapter 901)

In November 2000, PERB staff began meeting with interested parties to develop a comprehensive set of regulatory changes to support PERB's assumption of jurisdiction over the Meyers-Milias-Brown Act on July 1, 2001. Following a series of drafts and public workshops a final draft was prepared. On May 28, 2001, the Notice of Proposed Rulemaking was filed with OAL to begin the formal rulemaking process. The proposed regulations were also filed with OAL as emergency regulations and took effect on July 1, 2001. The Board itself then received written comments and held a public hearing on August 9, 2001. On August 31, 2001, the Board issued a Notice of Proposed Changes to the initial proposed rules. On September 20, 2001, the Board voted unanimously to adopt the proposed amendments and new regulations as submitted.

Other Rulemaking Activity

Additionally, a regulations package containing non-substantive and clarifying changes was submitted to OAL under the authority of Title 1, California Code of Regulations, section 100 during the fiscal year. The package was submitted for adoption to OAL on January 3, 2001 and was approved on February 15, 2001.

III. CASE DISPOSITIONS

A. Board Decisions

During the fiscal year, the Public Employment Relations Board (PERB or Board) issued 76 decisions and ruled on 5 requests for injunctive relief, a slight increase over the number of decisions in the prior fiscal year.

With the passage of SB 739, the Board anticipates a significant increase in the number of cases appealed to the Board in the coming fiscal year, including a number of cases involving legal questions of first impression as the Board assumes its responsibility for administering the Meyers-Milias-Brown Act (MMBA).

B. Litigation

There were a total of three new litigation cases opened during 2000-2001, which are summarized below. Five cases closed during the fiscal year, each with a result favorable to PERB.

C. Administrative Adjudication

During the fiscal year, the Division of Administrative Law conducted unfair practice hearings and settlement conferences throughout the state and issued proposed decisions. Proposed decisions become final if not appealed to the Board for review and over the year only 32 percent of the proposed decisions issued by the ALJ staff were appealed to the Board. The low appeal rate reflects favorably on the quality of the work by the division. The low appeal rate has the advantage of reducing the workload on the Board.

The division also assisted in conducting public meetings regarding PERB's implementation of the MMBA with local government representatives and unions representing local government employees. Judges of the division assisted the staff from the Office of the General Counsel in drafting regulations for the implementation of the MMBA.

A major activity by the division this fiscal year was the preparation and conduct of an examination for administrative law judge to select candidates to replace retiring judges. The exam involved both written and oral components. In the written portion, candidates were required to draft a proposed decision resolving an unfair practice dispute. The oral exam tested the ability of the candidates to conduct unfair practice hearings. The exam was difficult but was designed to secure a civil service list that will provide PERB with candidates of the highest quality for the critical position of administrative law judge.

D. Representation Activity

Election activity for the year was significantly higher than in recent years, with a total of 63 elections. PERB had averaged only 29 elections per year over the preceding three-year period. The types of elections showing the greatest increase were decertification (24 in 2000-2001, compared to an average of only seven in the three prior years) and fair share fee rescission (15 compared to two in 1999-2000 and none in the prior two years). All but two of the 15 rescission elections occurred under the EERA and followed the implementation of Senate Bill 1960 on January 1, 2001, which amended the Educational Employment Relations Act (EERA) to allow fair share fees to be required without a negotiated agreement or employee vote. The largest election conducted by PERB in this period involved the unsuccessful effort to rescind fair share fees in the State Bargaining Unit 1 - Administrative, Financial and Staff Services. That unit, represented by the California State Employees Association (CSEA), includes over 37,000 employees.

E. Dispute Resolutions and Settlements

PERB staff successfully assisted parties in resolving numerous unfair practice charges during the fiscal year. Of particular note is the work performed by PERB Administrative Law Judge James Tamm, who was invited to help resolve a dispute involving two pending unfair practice charges. The Fairfield Teachers Association went on strike in June 2001. As part of his mediation efforts on the unfair practice charges, Judge Tamm also worked with the parties about the issues involved in the strike. The strike was suspended in June and Judge Tamm met with the parties several times over the summer. Following marathon bargaining sessions that commenced on the Friday before the start of

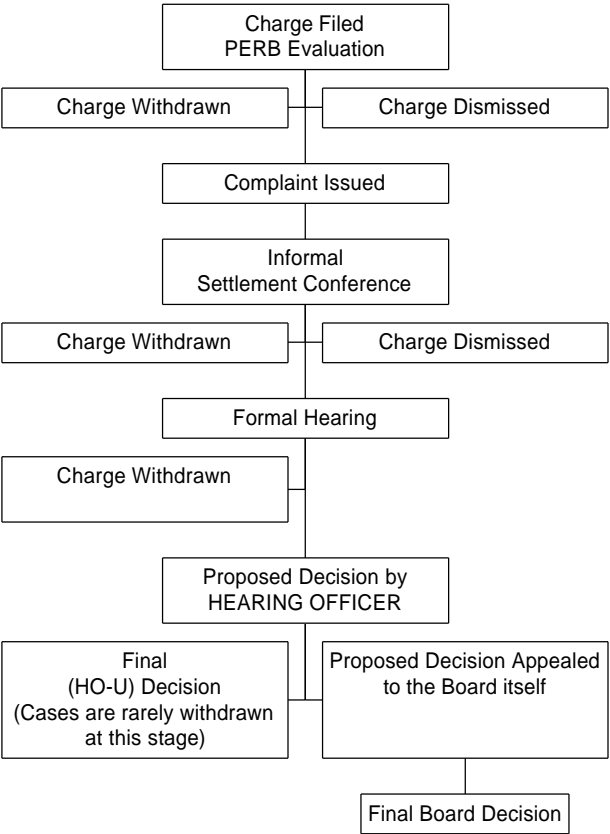
the school year, Judge Tamm assisted the parties in reaching agreement on a new contract, eliminating the threat of the strike as classes commenced in the fall.

PERB continued to strongly emphasize voluntary resolution of disputes. This emphasis begins with the first step of the unfair practice charge process, the investigation. During this step 139 cases were withdrawn, many through informal resolution by the parties. For the 164 cases where the investigation resulted in issuance of a complaint, staff from the General Counsel's office and the Office of Administrative Law conducted 202 days of settlement conferences. These efforts resulted in voluntary settlements in 89 of these cases, or nearly 60 percent. PERB believes that such settlements are the most efficient way of resolving disputes as well as providing an opportunity for the parties to improve their relationship. Accordingly, it will continue to work with the parties to resolve disputes through mediation and looks forward to extending this commitment to the MMBA parties recently added to its jurisdiction.

IV. APPENDICES

Note: Appendix A - Organization Chart may be found on PERB's website

UNFAIR PRACTICE CHARGE
FLOW CHART



APPENDIX IV-C

2000-2001 REPRESENTATION CASE ACTIVITY

I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	23	24
Severance	5	9
Petition for Certification	1	1
Decertification	22	25
Amended Certification	2	3
Unit Modification	32	31
Organizational Security	27	24
Financial Statement	1	1
Public Notice	4	2
Arbitration	1	2
Mediation	237	238
Factfinding	43	35
Compliance	20	24
Total	418	419

II. Prior Year Workload Comparison: Cases Filed

	1997-1998	1998-1999	1999-2000	2000-2001	4-Year Average
1 st Half	129	120	149	183	145
2 nd Half	215	219	213	235	221
Fiscal Year	344	339	362	418	366

III. Elections Conducted

Decertification	24
Organizational Security Approval	4
Organizational Security Rescission	15
Representation	14
Severance	4
Unit Modification	2
Total	63

Elections Conducted: 2000-2001

<u>Case No.</u>	<u>Employer</u>	<u>Unit Type</u>	<u>Winner</u>	<u>Unit Size</u>
<i>Decertification</i>				
LA-DP-00328-E	PALM SPRINGS USD	Wall Classified	Teamsters Local 911	663
LA-DP-00333-E	POWAY USD	Office Technical/Business Services		1107
LA-DP-00334-E	COMPTON UNIFIED SCHOOL DISTRICT	Instructional Aides	CSEA & its Compton Chapter #30	550
LA-DP-00335-E	EL CAMINO COMMUNITY COLLEGE DISTRICT	Wall Classified	El Camino Council of Classified Employees	361
LA-DP-00335-E	EL CAMINO COMMUNITY COLLEGE DISTRICT	Wall Classified	None-runoff needed	361
LA-DP-00336-E	CARPINTERIA USD	Wall Classified	CFT, Local 2215, AFL-CIO	156
LA-DP-00337-E	SAN BERNARDINO COE	All Classified Less Other Group	San Bernardino Public Employees Assn.	309
LA-DP-00338-E	BEAUMONT USD	Wall Classified	CSEA-Chapter 351	194
SA-DP-00189-E	STOCKTON CITY UNIFIED SCHOOL DISTRICT	Security	Operating Engineers Local 3	16
SA-DP-00190-E	CHAWANAKEE JtSD	Wall Certificated	Chawanakee Teachers Association, CTA/N	53
SA-DP-00191-E	LASSEN CCD	Wall Certificated	Lassen College Faculty Association	49
SA-DP-00192-E	TWAIN HARTE-LONG BARN UnESD	Wall Certificated	California Federation of Teachers/AFT	40
SA-DP-00193-E	BUTTE-GLENN CCD	Security	Butte College Police Officers Association	6
SA-DP-00194-E	WASHINGTON COLONY ESD	Wall Certificated	Washington Colony TA	24
SA-DP-00195-E	CORNING UnHSD	Operations, Support Services	Corning UnHS EA	20
SA-DP-00196-E	LEWISTON ELEMENTARY SCHOOL DISTRICT	Wall Classified	General Teamsters Local 137	16
SA-DP-00197-E	SUNNYSIDE UnESD	Wall Classified	CSEA, Chapter 675	25
SA-DP-00198-E	SUMMERVILLE UnHSD	Wall Classified	CSEA-Chapter 783	24
SA-DP-00199-E	TURLOCK JtUnHSD	Operations, Support Services	CSEA-Chapter 56	71
SA-DP-00200-E	TURLOCK JOINT ELEMENTARY SCHOOL DISTRICT	Operations, Support Services	CSEA-Chapter 56	100
SA-DP-00201-E	TURLOCK JOINT ELEMENTARY SCHOOL DISTRICT	Office Technical/Business Services	CSEA-Chapter 56	83
SF-DP-00238-E	LAYTONVILLE USD	Wall Classified	CSEA and its Laytonville Ch. 80	45

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Case No.	Employer	Unit Type	Winner	Unit Size
<i>Decertification</i>				
SF-DP-00242-E	FERNDAL USD	Wall Classified	No Representation	30
SF-DP-00245-E	CONTRA COSTA CCD	Wall Classified	PEU Local 1	454
<i>Organizational Security - Approval</i>				
LA-OS-00194-E	LA CANADA UNIFIED SCHOOL DISTRICT	Wall Certificated	Approved	225
LA-OS-00195-E	SAN JACINTO USD	Wall Certificated	Approved	290
SA-OS-00121-E	PLACER UnHSD	Adult School	Not Approved	20
SF-OS-00193-E	SONOMA VALLEY USD	Wall Certificated	Approved	279
<i>Organizational Security - Rescission</i>				
LA-OS-00196-E	BEARDSLEY ELEMENTARY SCHOOL DISTRICT	Wall Classified	Rescinded	120
LA-OS-00197-E	OJAI UNIFIED SCHOOL DISTRICT	Wall Classified	Not rescinded	190
LA-OS-00198-E	PLEASANT VALLEY SD	Operations, Support Services	Rescinded	60
LA-OS-00200-E	GARDEN GROVE USD	All Classified Less Other Group	Rescinded	2500
LA-OS-00202-E	ENCINITAS UnESD	Wall Classified	Not rescinded	173
SA-OS-00120-S	STATE OF CALIFORNIA	Administrative, Financial & Staff Services	Not Rescinded	37521
SA-OS-00122-E	ISLAND UNION ELEMENTARY SCHOOL DISTRICT	Wall Classified	Not rescinded	17
SA-OS-00124-E	TEHAMA COE	Operations, Support Services	Not rescinded	46
SA-OS-00125-E	PLACERVILLE UnESD	Wall Classified	Rescinded	42
SA-OS-00126-E	SISKIYOU COE	Wall Classified	Not rescinded	55
SA-OS-00127-E	PLACER COE	Wall Classified	Not rescinded	214
SA-OS-00128-E	WEAVERVILLE ESD	Wall Classified	Not rescinded	27
SA-OS-00129-E	BIG VALLEY Jt UNIFIED SCHOOL DISTRICT	Wall Classified	Not rescinded	31

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Case No.	Employer	Unit Type	Winner	Unit Size
<i>Organizational Security - Rescission</i>				
SF-OS-00191-H	HASTINGS COLLEGE OF LAW	Security	Rescinded	15
SF-OS-00194-E	FORESTVILLE UnESD	Wall Classified	Not rescinded	38
<i>Representation</i>				
LA-RR-01056-E	INGLEWOOD UNIFIED SCHOOL DISTRICT	Adult School	California Federation of Teachers	58
LA-RR-01057-E	COMPTON UNIFIED SCHOOL DISTRICT	Security	AFT Council of Classified Employees	50
LA-RR-01059-E	LOS ALAMOS ESD	Wall Certificated	Los Alamos Educators Assoc	13
LA-RR-01060-E	PALOMAR CCD	Wall Certificated	Palomar Faculty Federation	1423
LA-RR-01061-E	COPPER MOUNTAIN CCD	Wall Certificated	Copper Mountain College Faculty Assn	23
LA-RR-01062-E	PALO VERDE USD	Pupil Personnel	Teamsters Local 911	7
LA-RR-01063-E	MOUNT SAN JACINTO CCD	Certificated Part-Time	Communications Workers of America	424
LA-RR-01064-E	JULIAN UnHSD	Wall Classified	CSEA Chapter 807	12
LA-RR-01067-E	CITRUS COMMUNITY COLLEGE DISTRICT	Certificated Part-Time	Adjunct Faculty United	453
LA-RR-01068-E	LOS ALAMOS ESD	Wall Classified	Los Alamos Educators Assn.	19
SA-RR-01019-E	ATWATER ELEMENTARY SCHOOL DISTRICT	Operations, Support Services	No Representation	58
SA-RR-01022-E	GOLD TRAIL UNION SCHOOL DISTRICT	Wall Classified	Council of Classified Employees	19
SA-RR-01024-E	ALPINE COUNTY UNIFIED SCHOOL DISTRICT	Wall Classified	Operating Engineers Local 3	12
SA-RR-01026-E	ALPINE COUNTY OFFICE OF EDUCATION	Wall Classified	Operating Engineers Local 3	1
<i>Severance</i>				
LA-SV-00131-E	PALOMAR CCD	Operations, Support Services	Palomar CCE/AFT, Local 4522	47
LA-SV-00132-E	POMONA USD	Security	Pomona School Police Officers Assoc.	5
SA-SV-00148-E	AMADOR COUNTY UNIFIED SCHOOL DISTRICT	Transportation	CSEA-Chapter 239	26

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<u>Case No.</u>	<u>Employer</u>	<u>Unit Type</u>	<u>Winner</u>	<u>Unit Size</u>
<i>Severance</i>				
SA-SV-00155-E	EVERGREEN UnESD	Operations, Support Services	Teamsters Local 137	24
<i>Unit Modification</i>				
LA-UM-00661-E	SAUGUS UnESD	Wall Classified	CSEA	80
LA-UM-00663-E	SADDLEBACK VALLEY USD	Wall Classified	CSEA	169

APPENDIX IV-D

2000-2001 UNFAIR PRACTICE CHARGE STATISTICS

I. Unfair Practice Charges Filed by Office

	1st Half	2nd Half	Total
Sacramento	51	65	116
San Francisco	58	64	122
Los Angeles	<u>102</u>	<u>121</u>	<u>223</u>
Total	211	250	461

II. Unfair Practice Charge Dispositions by Office

	Charge Withdrawal	Charge Dismissed	Complaint Issued	Total
Sacramento	40	35	53	128
San Francisco	28	31	65	124
Los Angeles	<u>71</u>	<u>87</u>	<u>75</u>	<u>233</u>
Total	139	153	193	485

III. Prior Year Workload Comparison: Charges Filed

	1997/1998	1998/1999	1999/2000	2000/2001	4-Year Average
1 st Half	301	290	247	211	262
2 nd Half	<u>320</u>	<u>314</u>	<u>263</u>	<u>250</u>	<u>287</u>
Total	621	604	510	461	549

APPENDIX IV-E

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1394-S	International Union of Operating Engineers, Craft Maintenance Division, Unit 12 v. State of California (Department of General Services)	The Board dismissed the unfair practice charge. The charge alleged that the employer violated the Dills Act when it bypassed the union to deal directly with an employee.	Dismissed. The charge failed to provide any facts which indicate when the alleged unfair practice occurred, thus it cannot be determined whether the charge is timely filed.
1395-S	International Union of Operating Engineers, Craft Maintenance Division, Unit 12 v. State of California (Department of General Services)	The Board dismissed the unfair practice charge. The charge alleged that the employer violated the Dills Act by reducing an employee's annual performance evaluation results because he filed a grievance against the employer.	Dismissed. The charge failed to provide any facts which indicate when the alleged unfair practice occurred, thus it cannot be determined whether the charge is timely filed.
1396-S	International Union of Operating Engineers, Craft Maintenance Division, Unit 12 v. State of California (Department of General Services)	The Board granted the charging party's request to withdraw its unfair practice charge and appeal.	Unfair practice charge and appeal withdrawn. Granting this request is in the best interests of the parties and is consistent with the purposes of the Dills Act.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1397-S	International Union of Operating Engineers, Craft Maintenance Division, Unit 12 v. State of California (Department of General Services)	The Board dismissed the unfair practice charge, which alleged that the employer violated the Dills Act when it discriminated against an employee because he filed a grievance, and when it bypassed the union to deal directly with the employee regarding withdrawal of the grievance.	Dismissed. The charge failed to provide any facts which indicate when the alleged unfair practice occurred, thus it cannot be determined whether the charge is timely filed.
1398-E	Santa Monica Faculty Association v. Santa Monica Community College District	The Board granted the respondent's request to withdraw the exceptions.	Exceptions withdrawn. Granting this request is in the best interests of the parties and is consistent with the purposes of the EERA.
1399-S	California State Employees Association, Perry Kenny, Steven K. Alari and Barbara Glass v. State Employees Caucus for a Democratic Union, and its Agents Jim Hard, Cathy Hackett and Does 1-100	The Board dismissed the unfair practice charge. The charge alleged that the State Employees CDU and its agents are an employee organization with one of its primary purposes to represent state employees in their employment relations with the employer. CSEA claimed that CDU was therefore unlawfully competing with it.	Dismissed. CDU is a political faction within CSEA, not a competing employee organization, thus CDU is not subject to PERB sanction for violation of the Dills Act. Also, allegations filed against members of CDU as individuals are dismissed because the Dills Act only defines unlawful actions by the state and employee organizations.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1400-E	San Diego Community College District v. American Federations of Teachers Guild, Local 1931, AFL-CIO	The Board remanded the case to PERB General Counsel's Office for further investigation of the charge that the union violated the EERA by engaging in bad faith bargaining.	Pursuant to request of the General Counsel's Office, the Board remanded the case for further investigation.
1401-E	Hugh McAlpine, et al. v. Riverside County Office Teachers Association, CTA/NEA	The Board dismissed the unfair practice charge. The charge alleged that the union breached its duty of fair representation by negotiating a reduction in the salary augmentation for a class of instructors.	Dismissed. There is no violation of the duty of fair representation where the exclusive representative negotiated away part of charging parties' stipend while increasing the salaries of other bargaining unit members, because an exclusive representative is not expected or required to satisfy all members of the unit it represents.
1402-E	California School Employees Association and its Chapter #612 v. Antelope Valley Union High School District	The Board dismissed the unfair practice charge. The charge alleged that the employer replaced a full-time vacant cafeteria helper position with two part-time cafeteria helper positions and refused to negotiate the decision or its effects.	Dismissed. The employer's decision to phase out a full-time position at a particular school and to create two-part time positions was not negotiable because it represented a legitimate change in the nature, direction or level of service.

2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1403-S	California State Employees Association v. State of California (Department of Youth Authority)	The Board dismissed the unfair practice charge and complaint. The charge alleged that the employer discriminated against an employee when it: (1) initiated an internal affairs investigation against her with insufficient justification, (2) failed to select her for promotion to a position of assistant principal, (3) denied her educational leave opportunities, (4) required her to receive permission from a co-worker to obtain classroom supplies, and (5) had insufficient justification to give her an annual review with low performance evaluation marks.	Dismissed. There was insufficient evidence to support a charge that the adverse personnel actions were the result of the employee's protected activities.
1404-E	West Contra Costa Unified School District and Public Employees Union, Local One	The Board granted a unit modification petition. The petition, filed by the employer, requested the removal of the classifications of Cafeteria Leadworker and Cook Manager from the general services, maintenance and operations unit.	Unit modification petition granted. Two supervisory classifications are properly removed from the general services, maintenance and operations unit.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1387a-E	Deborah Newton Cooksey v. San Bernardino Teachers Association, CTA/NEA	The Board denied a request for reconsideration.	Denied. Charging party's request relied on arguments previously made and on evidence which would not impact or alter the decision of the previously decided case; hence, grounds for reconsideration do not exist.
1405-E	Hartnell College Faculty Association v. Hartnell Community College District	The Board remanded the case to the Board agent for further processing. The unfair practice charge alleged that the employer violated EERA by illegally interfering with the right of employees to be represented by the employee organization when it engaged in improper surveillance of e-mail.	Remanded to Board agent for further processing. Based on a review of the record, the Board granted the charging party's request for a remand because it appeared that the Board agent had not received a timely filed amended charge.
1406-S	Juanita Coleman v. State of California (Department of Mental Health)	The Board dismissed the unfair practice charge, which alleged that the employer violated the Dills Act by terminating an employee's employment in retaliation for her exercise of protected activity.	Dismissed. The charging party failed to meet her burden of demonstrating that the charge is timely filed.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1407-S	Juanita Coleman v. California State Employees Association	The Board dismissed the unfair practice charge, which alleged that the employee organization violated the Dills Act in its handling of her suspension and termination from employment.	Dismissed. The charging party failed to meet her burden of demonstrating that the charge is timely filed.
1408-S	Florence Elaine Torba v. California Association of Professional Scientists	The Board dismissed the unfair practice charge, which alleged a violation of the employee organization's duty of fair representation.	Dismissed. The statute of limitations begins to run on the date the charging party has actual or constructive notice of the respondent's clear intent to engage in the prohibited conduct; late discovery of a contractual summary does not toll the statute.
1409-H	Victoria Leitham v. Trustees of the California State University; Michael Twitty v. Trustees of the California State University	The Board dismissed the unfair practice charge, which alleged that the employer rejected two employees during their probationary period in retaliation for their having filed a grievance.	Dismissed. The employer proved that it would have taken adverse action against employees regardless of employees' participation in protected activity.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1410-E	San Joaquin Delta College Teachers Association, CTA/NEA v. San Joaquin Delta Community College District	The Board dismissed the unfair practice charge, which alleged that the employer violated EERA when it denied certain counselors' requests to move to alternate calendars.	Dismissed. The employer did not alter an existing policy when it denied employees' request to work an alternate calendar because the parties' agreement does not give employees the right to demand such a calendar.
1411-S	Paul Gonzalez-Coke v. California State Employees Association; Jim Hard and Cathy Hackett v. California State Employees Association	The Board dismissed the unfair practice charge, which alleged that the employee organization had unlawfully retaliated against charging parties by sustaining an internal union complaint filed against them.	Dismissed. The Board will not review charge allegations based on a union's filing an internal union complaint against charging parties when the charge concerns a purely internal union matter.
1412-E	Alisal Teachers Association, CTA/NEA v. Alisal Union Elementary School District	The Board found that the employer violated the EERA when it issued a letter of reprimand to an employee in retaliation for her protected activities.	Violation found. The Board found evidence of disparate treatment, departure from standard procedure, and cursory investigation.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1413-S	Robert Clayton v. State of California (Department of Social Services)	The Board dismissed allegations that the employer violated the Dills Act by terminating an employee's employment because of his protected activities.	Dismissed. There was insufficient evidence to support an inference of unlawful motivation; hence, the employee failed to establish that his dismissal was the result of his protected activities.
1414-E	California School Employees Association and its Golden Plains, Chapter 650 v. Golden Plains Unified School District	The Board dismissed the unfair practice charge, which alleged that the employer violated the EERA when it failed to negotiate the adoption of a board policy pertaining to termination of any bus driver employee who failed to pass a re-certification test.	Dismissed. There was no unilateral change because the employee organization failed to establish the existence of a past practice of accommodating bus driver employees who failed to pass a re-certification test.
1415-E	Michael Morrison v. California School Employees Association, Chapter 296	The Board dismissed the unfair practice charge. The charge alleged that the employee organization breached its duty of fair representation when it failed to file a grievance or otherwise represent the charging party properly regarding accusations made by the employer.	Dismissed. There was insufficient evidence that the employee organization breached its duty of fair representation when it failed to file a grievance or otherwise represent the employee properly.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1416-E	Orange Unified Education Association v. Orange Unified School District	The Board remanded the case for issuance of a complaint. The charge alleged that the employer unilaterally implemented changes in the terms and conditions of employment.	Remanded to General Counsel's office for issuance of a complaint to determine which of two agreements was the subject of the unfair practice charge, whether impasse had been broken, and adequacy of notice.
1403a-S	California State Employees Association v. State of California (Department of Youth Authority)	The Board denied a request for reconsideration based on an offer of new evidence.	Request for reconsideration based on an offer of new evidence denied. The party's failure to forward available documents to Board prior to close of record does not render those documents "unavailable"; hence, the grounds in PERB Regulation 32410(a) are not met and the Board cannot grant reconsideration.
1417-E	George R. Gerber, Jr., v. Sweetwater Union High School District	The Board dismissed the unfair practice charge, which alleged that the employer violated the EERA when it deducted agency fees from the charging party's paycheck on behalf of the exclusive representative without written authorization.	Dismissed. There is no violation of the EERA when an employer deducts agency fees from employee's paycheck without the employee's written authorization.

2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1418-E	Mildred Nicole Bryant v. Peralta Community College District	The Board dismissed the unfair practice charge. The charge alleged that the employer violated EERA by failing to adhere to the parties' grievance arbitration procedures.	Dismissed. The charging party failed to establish the charge was timely filed. No good cause existed to consider new supporting evidence on appeal to the Board.
1419-E	Mildred Nicole Bryant v. Service Employees International Union, Local 790	The Board dismissed the unfair practice charge. The charge alleged that the union breached the duty of fair representation by failing to represent the charging party properly.	Dismissed. The charging party failed to establish the charge was timely filed. No good cause existed to consider new supporting evidence on appeal to the Board.
1420-S	Armond Doval Bradford v. State of California (Department of General Services)	The Board dismissed the unfair practice charge. The charge alleged that the employer violated EERA by refusing to provide requested information and by taking reprisals against the charging party.	Dismissed. The employer has no duty to provide an individual employee with information requested by the exclusive representative. The remainder of the charge is deferred to the parties' contractual grievance procedure.
1421-S	Armond Doval Bradford v. California State Employees Association	The Board dismissed the unfair practice charge. The charge alleged that the employee organization breached the duty of fair representation.	Dismissed. The duty of fair representation does not extend to extra-contractual matters.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1422-E	Jeffry Peter LaMarca v. Capistrano Unified Education Association, CTA/NEA	The Board dismissed the unfair practice charge, which alleged that the employee organization denied an employee the right to fair representation by failing to assist him in a matter involving his previous employer.	Dismissed. The duty of fair representation is limited to contractually-based remedies under the union's exclusive control.
1423-H	California Faculty Association v. Trustees of the California State University	The Board granted the charging party's request to withdraw its appeal from a partial dismissal of its unfair practice charge.	Appeal withdrawn. Granting this request is in the best interests of the parties and is consistent with the purposes of the HEERA.
1424-E	Edward J. Gibbons v. Oxnard Educators Association	The Board dismissed the unfair practice charge. The charge alleged the employee organization breached the duty of fair representation by refusing to arbitrate legitimate grievances and disregarding and refusing to enforce specific contract provisions.	Dismissed. The charging party failed to prove that he could not have reasonably discovered the alleged unfair practice until six months before the charge was filed.
1415a-E	Michael Morrison v. California School Employees Association, Chapter 296	The Board denied the request for reconsideration.	Request for reconsideration denied. The request merely restated the grounds contained in the appeal.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1425-E	Sierra Sands Unified School District of Kern County v. Desert Area Teachers Association	The Board dismissed the unfair practice charge. The charge alleged that the employee organization violated the EERA by failing or refusing to bargain in good faith.	Dismissed. The union's conditioning bargaining based upon reopening of contract does not demonstrate evidence of bad faith under PERB's totality of conduct test.
1426-E	Deborah Susan Kerreos v. West Contra Costa Unified School District	The Board dismissed the charge, which alleged that the employer violated EERA in various ways, including the manner in which it handled grievances filed by the employee.	Dismissed. There is no violation of EERA section 3543.5(c), which obligates the employer to meet and negotiate in good faith with an exclusive representative because the charging party, an individual employee, lacks standing to pursue such a charge.
1427-E	Mary Hughes-Tutass v. West Contra Costa Unified School District	The Board dismissed the unfair practice charge, which alleged that the employer conspired with the union to ignore the charging party's contractual and/or legal rights to fair representation and due process, causing her to miss advancement opportunities; also, the charge alleged that the employer failed and refused to meet and negotiate with the employee or the union to address her grievances.	Dismissed. Individual employees lack standing to pursue a failure to negotiate charge; also, the charging party failed to provide a clear and concise statement of the facts.

2000-2001 DECISIONS OF THE BOARD BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1428-H	University Professional and Technical Employees, CWA, Local 9119 v. Regents of the University of California, Los Angeles	The Board dismissed the unfair practice charge, which alleged that the employer breached the neutrality required by the HEERA in the implementation of the "fair share" requirements. The employer's breach of neutrality allegedly occurred by its refusal to censure a web page of the UCLA Bruin Online web site created by a competing organization, NoFee4Me.	Dismissed. The employer is not obligated to advise exclusive representatives that employees have been granted access to web page space, even when employees are using it to oppose agency fee.
1429-E	Lodi Unified School District and Lodi Information Services Association and California School Employees Association & its Chapter 77	The Board denied the request for severance as proposed unit was not an appropriate unit for purposes of meeting and negotiating under EERA.	Denied request for severance. The proposed unit was not an appropriate unit for purposes of meeting and negotiating; no showing of a separate and distinct and distinct community of interest.
1430-E	Poway Federation of Teachers, Local 2357 v. Poway Unified School District	The Board remanded the case to the General Counsel's Office for issuance of a complaint and further processing.	Remanded to General Counsel's office for issuance of a complaint and further processing. The charging party has stated a prima facie violation of EERA by showing that the employer unilaterally adopted a final work calendar, not a tentative calendar.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1431-E	Kirk Anthony Robinson v. Los Angeles Unified School District	The Board dismissed the unfair practice charge. The charge alleged that the employer discriminated against the charging party because of his protected activity.	Dismissed. There was no prima facie case of retaliation where the only evidence of the charging party's protected activity consisted of contacting the union regarding notice of unsatisfactory conduct and where facts demonstrated that the charging party's termination was based on excessive absences, not because of contact with union.
1432-E	Kirk Anthony Robinson v. Los Angeles Unified School District	The Board dismissed the unfair practice charge. The charge alleged that the union breached its duty of fair representation in violation of EERA.	Dismissed. There is no violation of the duty of fair representation where the charging party is a probationary restricted employee with no right to appeal his dismissal; furthermore, the union met on numerous occasions with the charging party, yet the charging party failed to provide information requested by the union.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1365a-S	California State Employees Association v. State of California (Employment Development Department)	The Board modified Decision No. 1365 pursuant to a remand decision from the Court of Appeal. The underlying decision involved allegations that the employer violated the Dills Act by stopping a unity break and by issuing a memorandum to an employee apparently prohibiting future unity breaks.	Violation. Although employees have a protected right to communicate with each other at the work site concerning terms and conditions of employment during non-work times in non-work areas, unity break which consisted of employees displaying signs relating to ongoing contract negotiations at workstations during their break is not protected activity because other employees were working in the area at the time. However, the employer violated the Dills Act by issuing an overbroad memorandum to an employee.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1433-E	Woodland Education Association v. Woodland Joint Unified School District	The Board granted a post-settlement request to withdraw the unfair practice charge and complaint and to vacate the proposed decision.	Unfair practice charge and complaint withdrawn and proposed decision vacated. The Board exercised its discretion to dispose of a case in any fashion it deems appropriate; here, where it is clear that the parties have settled their dispute over the essential element of controversy that gave rise to the filing of the unfair practice charge, it would effectuate the purposes of the EERA to grant the request to withdraw the charge and complaint and to vacate the proposed decision.
1434-E	Wheatland Elementary School District and School Secretaries II Group of the Wheatland School District and California School Employees Association and its Wheatland Chapter 626	The Board granted the severance petition, having found that a unit of the employees in the Secretary I and Secretary II classifications is appropriate for meeting and negotiating provided an employee organization becomes the exclusive representative.	Severance petition granted. The Board found that the school secretaries share a community of interest that is distinct and separate from other classified employees of the district because only these employees perform primarily clerical work.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1435-S	International Union of Operating Engineers v. State of California (Department of Corrections)	The Board found that the employer, in violation of the Dills Act, unlawfully retaliated against a job steward because he engaged in protected conduct.	Violation. The Board found that the employer unlawfully retaliated against a job steward because he engaged in protected conduct. The Board concluded that the employer had not established that it had just cause to discipline the charging party, and that it had retaliated against him for engaging in protected activities as a union steward by investigating him for a tool incident and subsequently issuing him a letter of reprimand.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1436-E	Orange Unified School District v. Orange Unified Education Association, CTA/NEA	The Board granted a post-settlement request to withdraw the unfair practice charges and complaints and to vacate the proposed decision.	Unfair practice charges and complaints withdrawn and proposed decision vacated. The Board exercised its discretion to dispose of a case in any fashion it deems appropriate; here, where it is clear that the parties have settled their dispute over the essential element of controversy that gave rise to the filing of the unfair practice charge, it would effectuate the purposes of the EERA to grant the request to withdraw the charge and complaint and to vacate the proposed decision.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1437-E	Orange Unified School District v. Orange Unified Education Association	The Board granted a post-settlement request to withdraw the unfair practice charge and complaint and to vacate the proposed decision.	Unfair practice charge and complaint withdrawn and proposed decision vacated. The Board exercised its discretion to dispose of a case in any fashion it deems appropriate; here, where it is clear that the parties have settled their dispute over the essential element of controversy that gave rise to the filing of the unfair practice charge, it would effectuate the purposes of the EERA to grant the request to withdraw the charge and complaint and to vacate the proposed decision.
1438-E	United Educators of San Francisco v. San Francisco Unified School District	The Board dismissed the charge, which alleged that the employer violated the EERA when it unilaterally changed terms and conditions of employment at a charter school. The charge was dismissed on the grounds that PERB lacks jurisdiction over this type of charge.	Dismissed. PERB lacks jurisdiction because at the time the complaint issued, the EERA did not apply to school districts creating charter schools or the ongoing operation of those charter schools.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1439-E	Michael Nathaniel Miller v. Sweetwater Union High School District	The Board dismissed the charge for failure to state a prima facie case. The charge alleged that the employer violated the EERA by placing employee on administrative leave.	Dismissed. Although the adverse action followed closely the charging party's protected activity, there was no retaliation because the employer's action was consistent with its policy.
1440-E	California School Employees Association v. Lucia Mar Unified School District	The Board found that the employer violated EERA by contracting out entire bus services programs without negotiating.	Violation. The employer violated EERA by contracting out its entire bus services program without negotiating.
1441-E	Sheila Ann Hopper v. United Teachers of Los Angeles	The Board dismissed the unfair practice charge, which alleged that the union violated the EERA by failing to provide notice to new employees of their right not to join the union.	Dismissed. The charging party lacks standing to challenge the union's alleged failure to provide notice of certain rights.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1442-E	Kathleen M. Turney v. Fremont Unified School District	The Board partially dismissed the unfair practice charge, which alleged that the employer violated EERA by engaging in discrimination and retaliation because of the charging party's protected activity, making threats, and engaging in collusion with the charging party's exclusive representative.	Unfair practice charge partially dismissed. There is no prima facie case of interference or retaliation where the charge contains only limited evidence of what could be construed as harassment; also, evidence of previous PERB charges are insufficient to assist the charging party in establishing a prima facie violation of EERA.
1443-E	Kathleen M. Turney v. Fremont Unified District Teachers Association	The Board dismissed the unfair practice charge, which alleged that the union violated EERA by failing to represent the charging party properly in certain disputes with her employer and engaging in collusion with her employer.	Dismissed. The duty of fair representation does not extend to the filing of unfair practice charges with PERB.
1444-E	Martha D. Garcia v. California School Employees Association	The Board dismissed the unfair practice charge. The charge alleged that the union breached its duty of fair representation by failing to adequately represent the charging party regarding claims of sexual harassment.	Dismissed. The duty of fair representation is limited to contractually based remedies under the union's exclusive control.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1445-E	San Diego Community College District and San Diego Adult Educators Chapter of Local 4289, CFT, AFT, AFL-CIO and American Federation of Teachers Guild, Local 1931, CFT, AFT, AFL-CIO	The Board granted the unit modification petition, which sought to transfer continuing education counselors from a continuing education faculty unit to the college faculty unit (which includes counselors).	Unit modification petition granted. The Board granted the petition applying the totality of the circumstances approach after weighing the community of interest factors, negotiating history, evidence of dissatisfaction, and consideration of employee preference.
1446-H	Werner Franz Witke v. University Professional and Technical Employees, CWA Local 9119	The Board dismissed the unfair practice charge. The charge alleged that the arbitrator's award did not issue within 30 days of the close of the hearing, and that the exclusive representative failed to provide a reasonable basis by which chargeable and nonchargeable agency fee expenses could be calculated.	Dismissed. The award complied with the 30-day requirement of PERB Regulation 32994(b)(8); also, the charge failed to demonstrate that the decision was clearly repugnant to the EERA.
1447-E	Sheila Ann Hopper v. United Teachers of Los Angeles	The Board dismissed the unfair practice charge. The charge alleged that the exclusive representative violated the EERA by providing improper notice to nonmember fee payers as required.	Dismissed. The charging party did not indicate with specificity how the exclusive representative's agency fee notice failed to comply with PERB regulations.

2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1448-E	Michael Waymire v. California School Employees Association, Chapter 245	The Board dismissed the unfair practice charge. The charge alleged the Association violated EERA by failing to represent charging party properly.	Dismissed. The charge was untimely filed; also, PERB has no jurisdiction to enforce statutes regarding discrimination based on sex, religion or other prohibited bases.
1449-E	Michael Waymire v. Monterey Peninsula Community College District	The Board dismissed the unfair practice charge. The charge alleged that the employer violated the EERA by improperly calculating his holiday pay and other acts of discrimination.	Dismissed. The charge was untimely filed.
1450-E	Los Angeles School Police Officers Association v. Los Angeles Unified School District	The Board dismissed the unfair practice charge. The charge alleged that the employer unilaterally changed terms and conditions of employment and refused to bargain over negotiable subjects when it adopted a new policies and procedures manual.	Dismissed. The charge was untimely filed.

**2000-2001 DECISIONS OF THE BOARD
BOARD DECISIONS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1451-H	Academic Professionals of California v. Trustees of the California State University	The Board found that the employer violated the HEERA. The charge alleged that the employer made a unilateral change in policy concerning name tags.	Violation. Name tag policies fall into the category of policies that are known as "plant rules" in the private sector. The NLRB has long held plant rules to be within the scope of representation.
1452-E	California School Employees Association and its Lodi Chapter #77 v. Lodi Unified School District	The Board dismissed the unfair practice charge. The charge alleged that the employer violated the EERA by unilaterally modifying the pay rate for its food service workers.	Dismissed. The Board found sufficient evidence that the employer had the authority to pay its substitute food service workers the rate found in a certain document, rather than a higher rate paid for many years.
1453-E	Ruth Valadez, et al. v. United Teachers of Los Angeles	The Board affirmed the excepted to portion of the proposed decision of the administrative law judge, which dismissed the allegation that the union violated EERA by discriminating against charging parties when it refused to waive a certain contractual provision.	Unfair practice charge partially dismissed. The union demonstrated a rational basis for refusing to waive a contractual provision.

**2000-2001 DECISIONS OF THE BOARD
ADMINISTRATIVE APPEALS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
Ad-304-S	Jim Hard and Cathy Hackett v. California State Employees Association	The Board denied motion to seal documents and to re-open the record.	Denied motions to seal documents and to re-open the record. Documents do not qualify for protection under any theory; no persuasive reason offered to re-open record.
Ad-305-H	California Faculty Association v. Trustees of the California State University	The Board found good cause for the late filing of a document pursuant to PERB Regulation 32136 and accepted it as timely filed.	Good cause found to excuse late filing. Had the document been mailed by certified or express mail on the same day it was mailed by regular first class mail, it would have been accepted as timely. The explanation for the error, set forth in an unrefuted declaration, was not so unreasonable as to be unbelievable and there was no evidence of prejudice resulting from the deficient filing.

**2000-2001 DECISIONS OF THE BOARD
ADMINISTRATIVE APPEALS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
Ad-306	Poway Unified School District and Poway Council of Classified Employees, CFT/AFT, AFL-CIO and California School Employees Association and its Poway Chapter 80	The Board found that the objections concerning serious irregularity in the conduct of a decertification election warranted setting aside the election results. A rerun election was ordered.	Set aside election results and ordered rerun election. Based on all the facts, the totality of the circumstances establishes that serious irregularities occurred in the conduct of the election which had a probable or actual impact on the election results.
Ad-306a	Poway Unified School District and Poway Council of Classified Employees, CFT/AFT, AFL-CIO and California School Employees Association and its Poway Chapter 80	The Board denied a request for reconsideration.	Denied. The request does not meet the limited grounds for reconsideration because it constitutes little more than a restatement of the arguments raised earlier on appeal.

**2000-2001 DECISIONS OF THE BOARD
ADMINISTRATIVE APPEALS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
Ad-307	Howard O. Watts v. Los Angeles Unified School District	The Board dismissed the public notice complaint. The complaint alleged the employer violated EERA by adopting amended initial negotiating proposals without making the amendments available for adequate review by the public.	Dismissed. The complaint failed to support the claim that the employer adopted an initial proposal which had been amended without allowing for public notice and comment on the amendments; also, failure to allow public comment on proposed amendments to initial proposals prior to the proposing of the amendments does not violate EERA section 3547.1.
Ad-308	Robert E. Clayton v. State of California (Department of Social Services)	The Board denied a request to excuse a late filing caused by alleged physical illness.	Denied. The party failed to demonstrate a conscientious effort to timely file.
Ad-309	Carlos A. Veltruski v. State of California	The Board denied charging party's request to file a late appeal.	Denied. The party failed to explain how illness prevented him from making a conscientious effort to timely file.

**2000-2001 DECISIONS OF THE BOARD
INJUNCTIVE RELIEF REQUESTS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
I.R. 415	California School Employees Association v. Lucia Mar Unified School District	The Board denied the request for injunctive relief, in which the union sought to enjoin the employer from contracting out bargaining unit work without bargaining the decision and the effects of that decision; laying off bargaining unit employees without bargaining the decision and the effects of that decision; and bypassing the union.	Request denied.
I.R. 416	James Dunlap v. United Teachers of Los Angeles	The Board denied the request for injunctive relief, in which an employee sought to enjoin the union from enforcing a four-year rule so as to deny him the opportunity to serve in a certain position.	Request denied.
I.R. 417	Gary Marcus v. Mount Diablo Education Association, CTA/NEA	The Board denied the request for injunctive relief, in which an employee sought to enjoin the Association from implementing a new benefits program prior to resolution of the underlying unfair practice charge.	Request denied.

**2000-2001 DECISIONS OF THE BOARD
INJUNCTIVE RELIEF REQUESTS**

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
I.R. 418	Charles Gentry Corum v. American Federation of Teachers	The Board denied the request for injunctive relief, in which an employee sought to enjoin or postpone the faculty contract ratification vote from taking place since he contends that the contract was allegedly negotiated in bad faith, without the informed consent of the faculty and without fairly representing every employee in the unit.	Request denied.
I.R. 419	Jim Hard and Cathy Hackett v. California State Employees Association	The Board denied the request for injunctive relief, in which the charging parties sought to enjoin the union from denying their right to approve and/or be on union leave.	Request denied.

2000-2001 LITIGATION ACTIVITY

Philip A. Kok v. Coachella Valley Unified School District; American Federation of Teachers; California Teachers Association; Does 1 to 10 (inclusive). California Supreme Court, Case S091570. Issue: Did the Appellate Court err when it dismissed Kok's case? Kok filed his Request for Review with the California Supreme Court on September 25, 2000. The Court denied the Petition for Review on November 15, 2000.

Charles Baird, Allen L. Appell and Edward J. Erler v. California Faculty Association, Kathleen Connell, Controller of the State of California and California Public Employment Relations Board. Ninth Circuit Court of Appeals, Case 00-17399 appealing U.S. District Court, Eastern District, Case S 00-999 DFL JFM. Issue: Did the District Court err when it found no violation of the Constitution? Plaintiffs appealed the District Court's decision on December 6, 2000. Plaintiffs-Appellants' Opening Brief filed on March 26, 2001. PERB filed its Notice of Intention Not to File Appellee's Brief on April 17, 2001. The State filed its Notice of Intention Not to File Appellee's Brief on April 19, 2001. CFA filed its Opening Brief on April 23, 2001. Plaintiffs-Appellants' Reply Brief filed on May 18, 2001.

Lucia Mar Unified School District v. Public Employment Relations Board/California School Employees Association. Second District Court of Appeal, Division Six. Case B150510 [PERB Decision 1440]. Issue: Did PERB err in its finding that the District had violated EERA when it contracted out transportation services and terminated bargaining unit positions? Petition filed on June 4, 2001.

CLOSED CASES

California State Employees Association v. PERB/State of California (Employment Development Department) Second Appellate District, Case B138299, (PERB Decision 1365-S) Issue: Did PERB err when it determined that the Unity Break held by EDD employees was not an activity protected by the Dills Act? CSEA filed its Verified Petition for Writ of Review on January 18, 2000 and its Opening Brief on March 16, 2000. PERB filed its Brief in Opposition on April 13, 2000. The State filed its Opposition to Verified Petition for Writ of Review on April 14, 2000. CSEA filed its Reply Brief on May 2, 2000. On July 6, 2000, Oral Argument was heard. The Court issued its decision on October 17, 2000, affirming PERB's decision that CSEA and employee rights were not interfered with and modifying PERB's decision as it applied to future "unity breaks" and/or related activities in non-work areas during non-work time. The case is remanded to PERB.

Philip A. Kok v. Coachella Valley Unified School District, American Federation of Teachers, California Teachers Association, and Does 1 through 10, inclusive. Fourth District Court of Appeal, Division Two, Case E024883, (PERB Decisions 1302, 1302a and 1352). Issue: Amicus Curiae brief on behalf of the AFT and CTA arguing the case should be preempted by PERB's jurisdiction. On December 22, 1999, CTA submitted an amicus request to PERB. On February 7, 2000, PERB filed its Petition for Leave to File Amicus Curiae Brief; and Brief of Amicus Curiae in support of the AFT and CTA. The Court granted PERB's Petition to File as Amicus Curiae on March 23, 2000. On June 8, 2000, the Court issued its Tentative Ruling affirming the trial court's judgment in favor of the Defendants and denial of Kok's motion for reconsideration. The Court issued its Opinion denying the petition on August 15, 2000. Kok filed a request for reconsideration/ rehearing on August 18, 2000. The Court issued an Order denying Appellant's petition for rehearing on August 30, 2000.

Philip A. Kok v. Coachella Valley Unified School District; American Federation of Teachers; California Teachers Association; Does 1 to 10 (inclusive). California Supreme Court, Case S091570. Issue: Did the Appellate Court err when it dismissed Kok's case? Kok filed his Request for Review with the California Supreme Court on September 25, 2000. The Court denied the Petition for Review on November 15, 2000.

Kofi Opong-Mensah v. Terry Jackson, State of California (Department of Food and Agriculture) and PERB [PERB Decisions 1290-S and 1290a-S], Contra Costa County Superior Court, Case C 99 03749. Issue: Did PERB err in upholding the Regional Attorney's refusal to issue a complaint and dismissal of the charge. Mensah filed his Petition for Writ of Mandate on October 8, 1999. PERB filed its Preliminary Opposition on November 5, 1999. The State filed its Return by Way of Answer and Demurrer on November 8, 1999. PERB filed a Motion to Dismiss; Memorandum of Points & Authorities; and [Proposed] Order Granting PERB's Motion to Dismiss on June 8, 2000. Mensah filed his Opposition to Respondents Motions to Dismiss on November 4, 2000. The Court dismissed the case on November 17, 2000.

Kofi Opong-Mensah v. Steven B. Bassoff, John E. Sikora, CAPS and PERB [PERB Decision 1288-S], Contra Costa County Superior Court, Case C 99 03750. Issue: Did PERB err in upholding the Regional Attorney's refusal to issue a complaint and dismissal of the charge. Mensah filed his Petition for Writ of Mandate on October 8, 1999. PERB filed its Preliminary Opposition on November 5, 1999. PERB filed a Motion to Dismiss; Memorandum of Points & Authorities; and [Proposed] Order Granting PERB's Motion to Dismiss on June 8, 2000. On October 24, 2000, CAPS filed Defendants' Request for Judicial Notice; and Demurrer to Complaint. Mensah filed his Opposition to Respondents Motions to Dismiss on November 4, 2000. The Court dismissed the case on November 17, 2000.